

City of Houston, Texas, Ordinance No. 2005-_____

AN ORDINANCE AMENDING ARTICLE IX OF CHAPTER 45 OF THE CODE OF ORDINANCES, HOUSTON, TEXAS, RELATING TO PARADES; CONTAINING FINDINGS AND OTHER PROVISIONS RELATING TO THE FOREGOING SUBJECT; PROVIDING FOR SEVERABILITY; AND DECLARING AN EMERGENCY.

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WHEREAS, the conducting of parades on public streets as a means of expression has been long established as a hallmark of a free people and should be jealously guarded; and

WHEREAS, parades on public streets also serve to celebrate significant holidays, occasions or other events of importance to the community; and

WHEREAS, recent experience has demonstrated that the city's parade regulations should be amended to better serve those citizens and organizations who wish to engage in such activities; and

WHEREAS, the conducting of two parades on the same day in the downtown area has been shown to significantly impair the ability of certain city departments charged with preserving the public health, safety and welfare of the citizens of the city to carry out their functions by imposing an unreasonable burden on the staff and other resources of the affected departments; NOW, THEREFORE

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF HOUSTON, TEXAS:

Section 1. That the findings contained in the preamble of this Ordinance are determined to be true and correct and are hereby adopted as a part of this Ordinance.

Section 2. That Division 1 of Article IX of Chapter 45 of the Code of Ordinances, Houston, Texas, is hereby amended to read as follows:

"DIVISION 1. GENERALLY

Sec. 45-231. Definitions.

The following words, terms, and phrases, when used in this division, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

AAA means the American Arbitration Association.

Arbitrator means a person certified by the AAA to arbitrate disputes under its rules and procedures.

Commercial parade means any revenue generating parade or parade for which a participation fee is charged.

Conditional permit means a permit subject to or dependent upon the satisfaction of conditions that if not satisfied within the time allotted shall result in the automatic revocation of such permit.

Director means the director of the public works and engineering department or his designee unless specified.

Disbanding area means the area where parade participants, floats, vehicles, and animals disband following a parade.

Downtown area means the area including and bounded by Commerce Street on the north, Gray Avenue on the south, Chartres Street on the east, and Bagby Street on the west.

Final permit means a permit issued upon the satisfaction of all requirements of this division.

Holiday means any day officially recognized simultaneously by the city, Harris County, and the Houston Independent School District as a holiday for their employees observed by the general closure of their respective offices.

Non-commercial parade means any non-revenue generating parade or parade for which no participation fee is charged.

Parade means a procession of pedestrians, vehicles, animals or any combination thereof along or upon a street, road, or highway, but shall not mean a funeral procession, a government sanctioned motorcade, or a procession of pedestrians along or upon public sidewalks or private property

and shall not mean a procession of vehicles operated in compliance with ordinary traffic laws.

Special event holiday means any holiday proclaimed by the mayor as a special community celebration.

Staging area means the area where parade participants, floats, vehicles, and animals assemble prior to a parade.

Sec. 45-232. Permit required; traffic control.

(a) It shall be unlawful for any number of persons, delegations, or associations of persons, or for any company, circus, or group to conduct a parade along or upon the streets of the city without first obtaining a permit to do so.

(b) It shall be unlawful for any number of persons, delegations, or associations of persons, or for any company, circus, or group to conduct a parade upon any esplanade, median, median strip, or traffic island designed for the purpose of separating or directing vehicular traffic. No permit shall be required for the use of the sidewalks of the city for any procession or parade.

(c) Upon receipt of a permit, any number of persons, delegations, or associations of persons or any company, circus, or group may conduct a parade along or upon the streets of the city subject to the provisions of this division and other applicable laws.

(d) Traffic control services along a parade route, including the hiring and payment of personnel to deploy traffic control devices and to direct and control traffic, will be provided as follows:

- (1) By the city at no cost to the holder of a permit for a non-commercial parade, up to a maximum of 25 street intersections.
- (2) For a commercial parade, at the discretion of the director, either:
 - a. By the city at no cost to the permit holder for the first 15 street intersections; or
 - b. Entirely by the permit holder.

- (3) The holder of a commercial parade permit shall reimburse the city for traffic control services performed in excess of the limit set forth in subitem a of item (2) of this subsection at a fee of \$1,000 per street intersection.

(e) In no event shall the city provide traffic control services for more than two parades on the same calendar day.

(f) Traffic control or direction along a parade route shall be performed only by law enforcement officers certified under the laws of this State. The use of non-city personnel to deploy traffic control devices or perform traffic control or direction shall be subject to the approval of the director.

Sec. 45-233. Parade route restrictions in downtown area.

(a) For purposes of this division, 'intersection' means the junction of any two streets within the parade route, but shall not include any staging or disbanding area.

(b) Applicants for permits for parades to be held in the downtown area may design their own parade routes, subject to the approval of the director, with the following restrictions:

- (1) A parade held on a Saturday, Sunday, holiday, or special event holiday may include no more than 25 street intersections and must be completed in no more than three hours.
- (2) A parade held on a day other than a Saturday, Sunday, holiday, or special event holiday may include no more than 10 street intersections, must be completed in no more than one hour, and must begin at either 10:00 a.m. or 2:00 p.m.
- (3) The parade must be conducted in such a manner that to the extent that the route includes any entrances to or exits from off-street vehicle parking, loading, or customer service facilities, whether public or private, the width of the parade procession shall be controlled at those facilities so that at least one lane of the street may safely be left open for vehicular access to each vehicle facility from the nearest cross street.

- (4) A parade route may not include any streets or portions of streets that are located west of Bagby Street, south of Jefferson Street, east of Chartres Street, or north of Congress Street.**
- (5) A parade route must in its entirety be located either:**
 - a. On Fannin Street or other streets or portions of streets located to the east of Fannin Street; or**
 - b. On Travis Street or other streets or portions of streets located to the west of Travis Street.**

Sec. 45-234. Parades outside of downtown area.

(a) Permits for parades outside of the downtown area shall be issued in conformance with all the provisions of this division. No permit shall be issued for a parade that includes streets located both inside and outside the downtown area.

(b) Applicants for parade permits for parades to be held outside the downtown area may design their own parade routes with the following restrictions:

- (1) The route may not exceed one and one-half miles in length and may not include more than fourteen intersections, whichever is less; provided, however, that a parade held on a Saturday between the hours of 8:00 p.m. and 11:00 p.m. or on a Sunday between the hours of 1:00 p.m. and 11:00 p.m. may be greater than one and one-half miles or include more than 14 intersections.**
- (2) The maximum time necessary for completion of the parade may not exceed three hours.**
- (3) If the parade is to be held on a day other than a Saturday, Sunday, holiday, or special event holiday, it shall not be held between the hours of 7:00 a.m. and 9:00 a.m., or between the hours of 11:00 a.m. and 1:00 p.m., or between the hours of 3:30 p.m. and 7:00 p.m.**

- (4) If more than one parade is to be held on the same calendar day and time, the parade routes and staging and disbanding areas of each parade may not be within 5 miles of one another.
- (5) No parade route shall contain any portion of the following streets, roads, or highways:
- a. Interstate 610 Loop, including its service roads.
 - b. U.S. Highway 59, including its service roads.
 - c. Interstate Highway 45, including its service roads.
 - d. U.S. Highway 290, including its service roads.
 - e. Interstate Highway 10, including its service roads.
 - f. State Highway 288, including its service roads.
 - g. Controlled access portions of U.S. Highways 90 and 90-A, including their service roads.
 - h. The Hardy Toll road, including its service roads.
 - i. Beltway 8, including those portions known as the Sam Houston Toll Road, and its service roads.
 - j. State Highway 225, including its service roads.
 - k. Controlled access portions of State Highway 249, including its service roads.
 - l. State Highway Spur 5, including its service roads.
 - m. Westpark Toll Road.

This provision shall not be construed to prohibit a parade route from crossing one of the listed streets, roads, or highways while traveling along or upon a non-listed street, road, or highway.

Sec. 45-235. Permit application generally; issuance, etc.

(a) An application for a parade permit shall be submitted on a form supplied by the director, signed by the applicant or, if the applicant is other than an individual, a person authorized for that purpose by the applicant, sworn to before an officer authorized to administer oaths, and filed with the director.

(b) The director shall review each application to ensure that the time, place, and manner of the proposed parade comply with the provisions of this division and shall:

(1) Not later than the tenth business day after receipt of the application, notify the applicant of the denial of the application if it is found to conflict with another parade already permitted for the same date, or to be incomplete or to violate any provision of this Code, which notice shall set forth the reasons for the denial; or

(2) On the tenth business day after receipt of the application:

a. If more than one application has been received for a parade on the same date, notify the applicant of such fact and follow the procedures for a final determination set forth in subsections (i) and (j) of this section; or

b. If only one application has been received:

(i) Issue a final permit as provided in section 45-243 of this Code if the applicant has satisfied all requirements of this division for the proposed parade; or

(ii) Issue a conditional permit, if additional requirements are to be satisfied in the future but within the time allotted by this division.

(c) The issuance of a conditional permit shall not authorize a parade applicant to conduct a parade at the requested time, place, or date and shall serve only to reserve the time, place, and date of the proposed parade route pending the applicant's timely satisfaction of all other requirements of this division applicable to the parade requested,

including but not limited to the provision of required insurance, the payment of traffic control costs, or any other requirement.

(d) Each application for a parade permit must be accompanied by a non-refundable fee of \$250. All tendered fees must be in the form of a cashier's check or money order payable to the city.

(e) Applications for parade permits shall be delivered to the office of the director and may be delivered between the hours of 9:00 a.m. and 4:00 p.m. except on Saturdays, Sundays, and days observed as holidays for employees of the city.

(f) Applications for parade permits may be filed no earlier than the 365th day prior to the date of the requested parade, provided that if the 365th day falls on a Saturday, Sunday, or day observed as a holiday for employees of the city, then the application may be filed no earlier than the next day that is not a Saturday, Sunday, or day observed as a holiday for employees of the city. Prematurely filed applications, or applications that do not meet all requirements of this section, shall be of no force and effect and shall be returned to the applicant.

(g) The numbers of parade permits that may be issued shall be subject to the following limitations:

- (1) Only one permit shall be issued for a parade to be conducted in the downtown area on the same day;
- (2) *Only four permits may be issued for parades to be conducted on the same calendar day in the city limits; and*
- (3) Permits may not be issued for conflicting times. For purposes of this provision, parades are considered to be conflicting if their starting times are less than four hours apart.

(h) No person shall be issued more than one of the two permits available for any calendar day. In the event that any person, including an association, club, society, firm, partnership, corporate body, or individual or group of individuals representing or acting on behalf of the same person causes more than one application to be filed for parades to be conducted on the same calendar day, then the application first received shall be considered to be duly filed and any others shall be returned to the applicant. Except as provided in

subsection (i) below, parade permits shall be issued in the order in which completed applications that comply with all applicable requirements of this division are received in the director's office.

(i) If within the first 10 days allowed for the review of applications for a parade permit two or more organizations apply to hold a parade in the same location on the same day, the director shall immediately review each application and determine whether each fully complies with all requirements of this section and shall:

- (1) Return to the applicant as denied any application which falls under the provisions of item (1) of subsection (b) of this section and approve the remaining application;
- (2) If more than one application is determined to fully comply with this section, give written notice to all applicants whose applications meet the requirements of this section that:
 - a. Competing applications for a parade permit have been received;
 - b. The final determination as to the granting of a parade permit shall be made by an arbitrator;
 - c. The parties shall have five business days, excluding the date of the director's written notice, to mutually agree upon an arbitrator; and
 - d. If the director has not received written confirmation of the parties agreement on the arbitrator by the sixth business day after the director's notice under this item, the director will appoint the arbitrator; or
- (3) If only one application is determined to fully comply with this section, issue a permit as appropriate under subitem b of Item (2) of subsection (b) of this section.

(j) The arbitrator shall hold a hearing on all applications referred pursuant to the preceding subsection within 15 business days after receipt thereof and shall provide written notice of the date, time and location of such hearing at least 5 business days in advance thereof to the applicants and all other persons identified by the director. No

hearing shall continue past one day. All fees charged by the arbitrator shall be shared equally by the applicants and shall be paid directly to the arbitrator or the AAA, as its rules may require. Within 5 business days of the conclusion of the hearing, the arbitrator will render a final decision and award the parade permit to one of the applicants, giving written notice of his decision to the director.

The determination to grant a parade permit involving competing applications for a parade to be conducted on the same date shall be based upon an evaluation of each proposed parade utilizing the following criteria:

- (1) The extent to which the promoter's proposed parade:
 - a. Represents a traditional, historical or cultural event of importance to the city as a whole or to an identifiable segment of the community;
 - b. Has been conducted on the same date or in connection with a holiday or recurring event in the city over a period of years; and/or
 - c. Has enjoyed popular support as evidenced by its attendance by the citizens of the city or an identifiable segment of the community with which it has been traditionally or historically associated.
- (2) The experience of the parade promoter in conducting parades of a similar size or nature, including, but not limited to, consideration of the promoter's record in complying with applicable rules and laws, including local codes.
- (3) The extent to which the parade promoter's plans for the proposed parade address:
 - a. Traffic and/or mobility issues or impacts both (i) along the proposed parade route and (ii) in the immediate area of the parade.
 - b. The burden on city resources, including but not limited to, police, fire, EMS, solid waste or other city services that might be affected;

- c. **Publicity or other programs designed to involve the community in supporting and/or participating in the proposed parade; and/or**
- d. **Other benefits that to the community that may be realized from the parade.**

Sec. 45-236. Application information.

The application for a parade permit shall contain the following information:

- (1) **The name, address, and telephone number of the applicant, as well as the name, address, and telephone number of the individual who will be on-site and in charge of conducting the parade for the applicant and will be responsible to city officials for ensuring that the parade is conducted in compliance with this division and other applicable laws.**
- (2) **The date requested for the parade and the time of day requested.**
- (3) **The estimated duration of the parade and proposed route thereof.**
- (4) **The estimated number of animals that will be used in the parade.**
- (5) **The estimated number of individual persons who will participate in the parade.**
- (6) **The estimated number, if any, of animals and riders, animal-drawn vehicles, floats, motor vehicles, motorized displays, and marching units or organizations, such as bands, color guards, and drill teams that will participate in the parade.**
- (7) **A statement that the individual submitting the application is fully authorized to act and contract for the applicant, together with documents satisfactory to the director showing the authority of such individual.**

- (8) A provision whereby the applicant contracts and agrees that they will indemnify and hold the city harmless against liability for any and all claims for damage to property or injury to or death of persons arising out of or resulting from the conduct of the parade.**
- (9) If required by section 45-242 of this Code, either proof of the required insurance or a declaration that proof of insurance will be provided within the time set forth in that section.**
- (10) A provision whereby the applicant and any other persons, associations, organizations, firms, or corporations on whose behalf the application is made agree to comply with any special or unusual requirements that may be imposed or created by virtue of the proposed nature or size of the parade.**
- (11) A declaration as to the commercial or non-commercial status of the parade.**
- (12) A declaration that the individual conducting a parade prefers to either:**

 - a. Provide all necessary traffic control services with non-city personnel; or**
 - b. Reimburse the city for the provision of traffic control services as provided in section 45-232 of this Code.**

Such declaration by the parade organizer shall be final.

- (13) A statement that the applicant agrees to provide any other information required by the director.**

Sec. 45-237. When application for parade permit is deemed complete.

An application for a parade permit is deemed completed when the applicant has provided all of the information required in section 45-236 including proof of insurance and any additional information required by the director pursuant to items (9) and (13) of section 45-236

and paid any fees or reimbursements due to the city pursuant to this or any previous permit from the city.

Sec. 45-238. Reasons for denial of a parade permit.

(a) The director may deny a parade permit if the applicant has failed to meet all of the requirements for submitting an application for a parade permit.

(b) Notwithstanding the provisions of subsection (a), the director may deny a parade permit if, after reviewing the applicants' application:

- (1) The applicant demonstrates an inability or unwillingness to conduct a parade pursuant to the terms and conditions of this division;
- (2) The applicant demonstrates an inability or unwillingness to conduct a parade pursuant to the terms and conditions set forth in the parade permit application;
- (3) The applicant has failed to conduct a previously authorized or exempted parade in accordance with law or the terms of a previously issued parade permit, or both;
- (4) The parade will significantly affect the ability of the city to render necessary services to its residents, based upon its equipment and personnel resources and other ongoing functions and responsibilities of its affected departments, including the police, fire, and public works and engineering departments;
- (5) The parade will unreasonably interfere with public mobility or otherwise substantially inconvenience the public; or
- (6) The parade will create the imminent possibility of violent disorderly conduct likely to endanger public health or safety or to result in significant property damage.

Sec. 45-239. Procedure upon permit denial.

Except for a permit granted under the provisions of subsections (i) and (j) of section 45-235 of this Code, the director shall notify the applicant of any permit denial, and the reasons therefore, by placing

such notice in the United States mail, certified, return receipt requested within 10 working days of the date of the receipt of the application.

Such letter shall be addressed to the applicant at the address stated on the application. Any failure to give such notice of denial within the time limits prescribed in this section, shall be deemed a granting of the permit as requested.

Sec. 45-240. Revocation of permit.

(a) A permit may be revoked if the director determines that:

- (1) A violation of any condition of the permit exists, including failure to obtain approval for any security or other plans required under this Code or to implement any such plans;**
- (2) The event poses an immediate threat to health or safety;**
- (3) The event organizer or any person associated with the event has failed to obtain any other permit required pursuant to this Code or other applicable law;**
- (4) The permit was issued in error or contrary to law;**
- (5) If parade changes from a non-insurance to one that requires insurance or a non-commercial to a commercial parade; or**
- (6) The applicant demonstrates an inability or unwillingness to conduct a parade pursuant to the terms and conditions set forth in the parade permit application.**

(b) Except as provided in subsection (c) of this section, notice of revocation shall be in writing and set forth specifically the reasons for the revocation.

(c) Any threat to health or safety requiring immediate revocation of a permit shall authorize the director or any other person authorized by the city to notify the event organizer verbally of such revocation.

(d) The appeal of a revocation shall be handled in the same manner and under the same time requirements as denials of permits.

Sec. 45-241. Appeal from permit denial.

(a) The decision of the director is final unless appealed under this section. Except for a permit granted under the provisions of subsections (i) and (j) of section 45-235 of this Code an applicant may appeal the denial or revocation of a permit by filing a written request for a hearing with the director within 10 working days of the date of such denial. A hearing shall be conducted within 10 working days of the receipt of such request by a hearing committee, consisting of the director of the mayor's office of special events or his designee, the chief of police or his designee and the fire chief or his designee. The city attorney or his designee shall be present, in a non-voting capacity, to advise on any legal issue. It shall be the duty of the director to defend the decision during the hearing. Evidence on the matter shall be received in accordance with Rule 12 of section 2-2 of this Code. The hearing committee shall render a written decision on the matter within five working days of the date of the hearing and immediately provide a copy of such decision to the applicant.

(b) Upon receipt of the hearing committee's decision, the applicant may appeal such decision by giving written notice to the city secretary within five working days of the date of such decision. The city secretary and city agenda director shall arrange a date for the matter to be reviewed by the city council, at the next regularly-scheduled council meeting at which it is possible to give lawful prior notice of the matter after the receipt of the hearing committee's decision and the record required by Rule 12 of section 2-2 of this Code. The city secretary shall give written notice thereof to the applicant. The city council shall consider the appeal under the provisions of Rule 12. At the conclusion of the city council's review of the matter, the city council shall render a decision to grant or deny the requested permit, and such decision shall be final and exhaust the applicant's administrative remedies. If the foregoing time requirements appear inadequate to resolve the appeal prior to the date scheduled for the event, the burden shall be upon the applicant to expedite any filings required and to request a special city council meeting, which shall be granted if reasonable under the circumstance.

Sec. 45-242. Insurance.

(a) No final parade permit shall be issued by the director for a parade to include any number of animals or motorized vehicles unless the applicants shall have delivered to the director proof that the

insurance required by this section has been obtained by the applicant. Proof of insurance required for a parade to include any number of animals or motorized vehicles shall be delivered to the director not less than 30 days before the proposed parade date.

(b) Any applicant for a parade permit who fails to provide the requisite proof of insurance not less than 30 days before the proposed parade date shall not be granted a final parade permit. Any conditional parade permit which may have been previously issued shall be revoked by operation of law.

(c) The proof of insurance required by this section for a parade to include any number of animals, floats or motorized vehicles not subject to state safety responsibility laws shall consist of a current policy of commercial general liability insurance for certain designated premises, including the parade route, staging area, and disbanding area. The policy shall bear an endorsement for the contractually assumed liability as set forth in item (8) of section 45-236 of this Code. These required policies shall be issued by companies rated A-VI or better by AM Best.

The insurance shall contain policy limits of not less than the following:

- (1) Commercial general liability insurance with a minimum limit of:
 - a. For property damage, \$1,000,000.00 for each occurrence; and
 - b. For bodily injury or death, \$1,000,000.00 for each occurrence.
- (2) Automobile liability insurance, covering all hired and non-owned vehicles with a minimum limit of bodily injury and property damage of \$1,000,000.00 combined single limit.

(d) The proof of insurance required by this section for a parade to include motorized vehicles subject to state safety responsibility laws may be in the form provided in subsection (c) or alternatively consist of proof of compliance with state safety responsibility laws for each vehicle.

Sec. 45-243. Final permit.

A final permit shall be issued only when the applicant has provided all information, including proof of insurance and any additional information, required pursuant to section 45-236 of this Code.

Sec. 45-244. Parades exempt from permits.

(a) Notwithstanding the provisions of this division, no permit shall be required for a parade that meets all of the following restrictions:

- (1) The parade shall not contain more than 250 individuals and up to 12 vehicles or animals.
- (2) The parade shall not contain any number of animals or vehicles that are not licensed to travel on public streets.
- (3) The parade route shall not exceed one mile in length, shall contain no portion of a major thoroughfare or major collector street and may contain no streets located within the downtown area.
- (4) The parade shall comply with the time restrictions contained in subsection (b)(3) of section 45-234 of this Code, and shall take no longer than one hour to complete.
- (5) The parade sponsors shall provide necessary traffic control.

(b) The individual or group of individuals who intend to conduct a parade under this section shall give written notice of the time, day, and place of the parade to the director, the chief of police, and the fire chief by hand delivering the notice at least 72 hours before the parade or by mailing the notice by certified mail, when the certified mail is received at least 120 hours before the parade.

(c) The city shall not be responsible for providing police officers or other city employees to perform traffic control functions during a parade held under authority of this section.

Sec. 45-245. Staging and disbanding areas; other uses of public streets and sidewalks.

Consistent with traffic mobility and access considerations, the director, or his designee, in consultation with the chief of police, or his designee, may allow public streets to be used by parade permit holders as staging and disbanding areas for parades. The use of public streets and sidewalks for purposes other than staging or disbanding are subject to the regulations set forth in section 40-27 and sections 40-361 through 40-378 of this Code. The closure of freeway ramps associated with a parade requires the submission to the director of a signed and sealed traffic control plan and proof of compliance with all insurance requirements at least 90 days prior to the scheduled parade date.

Sec. 45-246. Regulations.

Consistent with the provisions of this division and other applicable laws, the director may issue regulations governing the issuance of parade permits and the conduct of parades. The regulations shall be subject to the approval of the city attorney. A copy of any regulations so promulgated shall be made available upon request in the director's office for inspection and for purchase at the copy fee provided by law.

Secs. 45-247--45-250. Reserved."

Section 3. That, if any provision, section, subsection, sentence, clause, or phrase of this Ordinance, or the application of same to any person or set of circumstances, is for any reason held to be unconstitutional, void or invalid, the validity of the remaining portions of this Ordinance or their application to other persons or sets of circumstances shall not be affected thereby, it being the intent of the City Council in adopting this Ordinance that no portion hereof or provision or regulation contained herein shall become inoperative or fail by reason of any unconstitutionality, voidness or invalidity of any other portion hereof, and all provisions of this Ordinance are declared to be severable for that purpose.

Section 4. That there exists a public emergency requiring that this Ordinance be passed finally on the date of its introduction as requested in writing by the Mayor; therefore, this Ordinance shall be passed finally on such date and shall take effect at 12:01 a.m. on January 1, 2006.

PASSED AND APPROVED this ____ day of _____, 2005.

Mayor of the City of Houston

Pursuant to Article VI, Section 6, Houston City Charter, the effective date of the foregoing Ordinance is _____.

City Secretary

Prepared by Legal Dept. _____
RDC:asw 11/29/2005 Senior Assistant City Attorney
Requested by
L.D. File No. 0390400434001